

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JULY 8, 2015**

PRESENT: Frank A. de la Fe, Hunter Mill District
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
John Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Earl L. Flanagan, Mount Vernon District
John L. Litzenberger, Jr., Sully District
Janyce N. Hedetniemi, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Kenneth A. Lawrence, Providence District
Peter F. Murphy, Springfield District
Julie M. Strandlie, Mason District

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The meeting was called to order at 8:18 p.m., by Vice Chairman Frank de la Fe, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

PA 2013-I-B2 – SEVEN CORNERS CBC AREA (Decision Only) (The public hearing on this application was held on May 7, 2015.)

(Start Verbatim Transcript)

Commissioner Hedetniemi: Thank you, Mr. Chairman. On behalf of Commissioner Strandlie, I MOVE THAT PLAN AMENDMENT 2013-1-B2 SEVEN CORNERS COMMUNITY BUSINESS CENTER STUDY BE DEFERRED FOR DECISION ONLY TO JULY 15, 2015, WITH THE RECORD REMAINING OPEN.

Commissioner Litzenberger: Second.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Litzenberger and Mr. Hart. Any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motion carried by a vote of 9-0. Commissioner Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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SE 2015-MV-003 – FIRST YEARS LEARNING CENTER/CLAUDIA TRAMONTANA
(Decision Only) (The public hearing on this application was held on June 10, 2015.)

(Start Verbatim Transcript)

Commissioner Flanagan: Thank you Mr. Chairman. As a result of the public hearing testimony on June 10, the applicant has been considering three amendments to conditions. One amendment is still not final so the applicant has requested additional time. I agree, therefore I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2015-MV-003 TO A DATE CERTAIN OF JULY 22, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Hedetniemi: Second.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioners Hedetniemi and Litzenberger. Any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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ADMINISTRATIVE ITEM

FDPA 2012-MV-007 – ACCOTINK VILLAGE PLAZA

(Start Verbatim Transcript)

Commissioner Flanagan: Yes - the - on June 24th a package was distributed to the Planning Commission regarding the Plaza design for Accotink Village, at the intersection of Backlick Road and Richmond Highway, in the middle of Fort Belvoir. The approved final development plan amendment conditions for this development state that the applicant will submit details of the Urban Plaza design to the Planning Commission for review and administrative approval. I have received no comments or recommendations from the Commissioners so therefore, I MOVE THAT THE PLANNING COMMISSION FIND THAT THE PROPOSED PLAZA DESIGN, ENTITLED ACCOTINK VILLAGE PLAZA EXHIBIT SATISFIES CONDITION NUMBER TWO OF THE FINAL DEVELOPMENT PLAN AMENDMENT AS 2012-MV-007.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. All those - is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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Commissioner Hart announced his intention to move on the minutes from December, which were recently distributed, on July 22, 2015. He requested the Commissioners to review and submit any corrections to John Cooper, Clerk to the Planning Commission.

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. FDPA 2002-MV-040-02 – LORTON AL INVESTORS, LLC
2. ZONING ORDINANCE AMENDMENT – MINOR/EDITORIAL REVISIONS
3. CSP 2011-PR-011/SEA 2002-PR-031-02 – THE MITRE CORPORATION
4. RZ/FDP 2014-SU-016/PCA 78-S-063-07 – WESTFIELDS VENTURE, LP

5. ZONING ORDINANCE AMENDMENT – DONATION DROP BOXES
6. SE 2015-SU-009 – LAIBA SHEIKH/LAIBA’S FAMILY DAY CARE

This agenda was accepted without objection.

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FDPA 2002-MV-040-02 - LORTON AL INVESTORS, LLC – Appl. to amend the final development plans for RZ 2002-MV-040 to permit a medical care facility and associated changes to development conditions. Located in the N.W. quadrant of the intersection of Silverbrook Rd. and White Spruce Way, on approx. 2.94 ac. of land zoned PDH-12. Tax Map 107-1 ((7)) E. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Lynne Strobel, Applicant’s Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated June 26, 2015. Commissioner Sargeant recused himself from the public hearing and decision due to contributions made to his campaign in excess of one hundred dollars, as referenced in the affidavit.

Commissioner Hart disclosed that his law firm of Hart and Horan, PC, has one case involving attorneys from Walsh, Colucci, Lubeley & Walsh, P.C. The matter and those parties are unrelated to this case, have no business or financial relationship and will not prevent him from participating in the public hearing.

Carmen Bishop, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application FDPA 2002-MV-040-02.

Ms. Strobel started her presentation by stating that the Springhill Senior Campus was an age restricted community that was approved in 2003 and that most of the campus had been constructed with the exception of this application and another parcel that will be developed with affordable dwelling units. She noted that the applicant was proposing to replace a previously approved 80-unit independent living building with an assisted living building. Ms. Strobel explained the applicant’s process prior to coming before the Planning Commission, specifically noting the recommendation of approvals from the Architectural Review Board and the South County Federation. The applicant also met with the Affordable Dwelling Unit Advisory Board. Ms. Strobel explained that the two presentations made to the Health Care Advisory Board were due to discussions over the operation of the facility and services that would be provided. A recommendation of approval was obtained with the applicant’s agreement to provide four Auxiliary Grant Program Units within this building. The applicant submitted proposed Development Conditions dated June 24, 2015, which included the Auxiliary Grant Program Units and to address the concern of providing these residents with a higher level of care on a permanent basis regarding memory health issues. It allowed for a transition plan for these

residents to make sure they received the care needed until a more permanent situation could be established; for example, transfer to another facility. It also included the residents of the Springhill Senior Campus. In closing, Ms. Strobel stated that she believes this facility will be an asset to Fairfax County and addresses a need within the community.

Per Commissioner Flanagan's request, Ms. Strobel confirmed the applicant was in agreement with the proposed Development Conditions and the changes to Development Condition Number 6 that addressed the mental memory health issues.

Vice Chairman de la Fe called the one listed speaker and recited the rules for testimony.

Lawrence Clark, Spring Hill Community Association, 8889 White Orchard Place, Lorton, spoke in support of the application. He stated that the applicant had worked with the association to address concerns and cited an internal agreement for future operations. Commissioner Flanagan asked Mr. Clark if he had read the changes to proposed Development Condition Number 6. Mr. Clark confirmed that he had.

There were no additional speakers. Neither staff nor Ms. Strobel had any additional comments. Therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Flanagan for action on this case.

(Start Verbatim Transcript)

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Vice Chairman de la Fe: The public hearing is closed. This is in the Mount Vernon District, Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I've already had the applicant, you know, confirm their agreement with the conditions so at this point I MOVE THAT THE PLANNING COMMISSION APPROVE THE FINAL DEVELOPMENT PLAN AMENDMENT 2002-MV-040-02 SUBJECT TO THE CONDITIONS DATED JUNE 24, 2015.

Commissioner Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Commissioner Heditniemi. Is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

(The motion carried by a vote of 8-0. Commissioner Sargent recused himself from the public hearing. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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ZONING ORDINANCE AMENDMENT – MINOR/EDITORIAL REVISIONS -

To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment proposes an amendment to Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows:

- (1) Revises Par. 2B(2) of Sect 2-514 to increase the permitted height of directional/panel antennas from 6 feet to 8.5 feet when mounted on existing or replacement utility distribution and transmission poles or light/camera standards. Also revises Par. 2C(3)(b) to increase the permitted diameter for certain new or replacement light/camera standards from 42 inches to 60 inches.
- (2) Revises Par. 1 of Sect 8-305 to permit the BZA to allow an expansion of the permitted hours of attendance for a nonresident employee beyond the current limits of 7:00 AM to 6:00 PM.
- (3) Revises Paragraphs 3 and 4 of Sect. 8-810 to allow temporary farmers' markets when there is frontage or safe and convenient access to any arterial street and clarifies the kinds of display items (canopies, tables, temporary portable shelving, hanging racks, etc.) that may be utilized for the market.
- (4) Revises the reference to the Noise Standards from Chapter 108 of the Code to 108.1 of the Code to reflect the recodification in the Code of Fairfax County.
- (5) Deletes references to metric units of measure and inserts the English equivalent in Sections 17-106 and 17-201 and 18-704.
- (6) Modifies the definition of group residential facility in Article 20 to be consistent with the amended language in the Code of Virginia, which permits a resident or nonresident staff person. PUBLIC HEARING.

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Matt Mertz, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the proposed Zoning Ordinance Amendment.

Commissioner Hurley stated that she had requested clarification on the definition of providers' own children, and whether it included foster, step, and grandchildren adding that grandchildren were currently not included. Commissioner Hurley stated that she was in support of this Amendment and also wanted to propose to the Board of Supervisors (BOS) that the definition be reviewed in order to address different situations such as relatives caring for children of deployed military parents.

Commissioner Ulfelder questioned staff about the Noise Ordinance going before the BOS in November and how it would impact this Amendment. Donna Pesto, ZAD, DPZ, stated that it now appeared that this Zoning Ordinance Amendment would be adopted before the Noise Ordinance. Ms. Pesto stated that DPZ would ask the BOS to have an effective date for this Amendment that excluded the section regarding the Noise Ordinance so that it could become effective following adoption of the Noise Ordinance.

Vice Chairman called for speakers and additional comments from staff, there were none; therefore, he closed the public hearing.

(Start Verbatim Transcript)

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Vice Chairman de la Fe: The public hearing is closed. This is, Commissioner Hedetniemi, I believe you are the one that is handling this.

Commissioner Hedetniemi: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED MINOR/EDITORIAL REVISIONS AS ADVERTISED.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. Is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries and Commissioner Hurley, you said you were going to, make a motion.

Commissioner Hurley: I MOVE THE PLANNING COMMISSION.

Commissioner Hart: No, your mic isn't on.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DIRECT THE STAFF TO EVALUATE AND REPORT BACK WITH APPROPRIATE RECOMMENDATIONS THE DEFINITION OF THE TERM CHILDREN IN REGARDS TO THE PHRASE "CHILD PROVIDERS OWN CHILDREN."

Commissioner Migliaccio: Second.

Vice Chairman de la Fe: Seconded by Commissioner Migliaccio. Is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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CSP 2011-PR-011 - THE MITRE CORPORATION – Appl. under Sect. 12-210 of the Zoning Ordinance for approval of a Comprehensive Sign Plan associated with RZ 2011-PR-011. Located on the E. side of Colshire Dr., approx. 880 ft. S. of Dolley Madison Blvd., on approx. 2.93 ac. of land zoned PTC, HC. Tax Map 30-3 ((28)) 4C. (Concurrent with SEA 2002-PR-031-02). (PROVIDENCE DISTRICT)

SEA 2002-PR-031-02 - THE MITRE CORPORATION – Appl. under Sect. 9-620 of the Zoning Ordinance to amend SE 2002-PR-031 previously approved for a waiver of certain sign regulations to permit the installation of additional way finding signage and associated modifications to site design and development conditions. Located at 7515 Colshire Dr., McLean, 22102, on approx. 19.60 ac. of land zoned C-3, HC. Tax Map 30-3 ((28)) 3 A1 and 4 A3. (Concurrent with CSP 2011-PR-011). (PROVIDENCE DISTRICT) JOINT PUBLIC HEARING.

Brian Winterhalter, Applicant's Agent, Cooley LLP, reaffirmed the affidavit dated June 24, 2015.

There were no disclosures by Commission members.

Commissioner Hart asked that Vice Chairman de la Fe ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Hart for action on this case.

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Vice Chairman de la Fe: I will close the public hearing and, Mr. Hart.

Commissioner Hart: Yes, thank you, Mr. Chairman. Before we go on the verbatim, if Mr. Winterhalter could come back to the podium? Mr. Winterhalter, has your client reviewed the proposed development conditions in - are they in agreement?

Brian J. Winterhalter, Applicant's Agent, Cooley LLP: Yes sir.

Commissioner Hart: All right.

Mr. Winterhalter: We're in agreement.

Commissioner Hart: Thank you, with that Mr. Chairman this is a straightforward case and it has staff's recommendation and approval of which I concur. I THEREFORE MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 2002-PR-031-02 SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 24, 2015.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. Is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Hart: Mr. Chairman.

Vice Chairman de la Fe: Mr. Hart.

Commissioner Hart: Thank you, I MOVE THAT THE PLANNING COMMISSION APPROVE CSP 2011-PR-011 SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JULY 6, 2015.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. Any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

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RZ/FDP 2014-SU-016 - WESTFIELDS VENTURE LP – Appls. to rezone from I-3,WS to PRM,WS to permit mixed use development with an overall Floor Area Ratio (FAR) of 0.50 including bonus density for the provision of Affordable Dwelling Units (ADUs) and Workforce Dwelling Units (WDUs), approval of the conceptual and final development plans, and a waiver #1764-WPFM-001-1 to permit the location of underground storm water management facilities in a residential area. Located on the N.W. quadrant of the intersection of Westfields Blvd. and Stonecroft Blvd., on approx. 50.59 ac. of land. Comp. Plan Rec: Mixed Use. Tax Map 44-3 ((1)) 15. Also, under the Board’s consideration will be the applicant’s Water Quality Impact Assessment Request #6179-WQ-004-1 and a Resource Protection Area Encroachment Exception Request #6179-WRPA-007-1 under Section 118-6-9 (Chesapeake Bay Preservation Ordinance) of Chapter 118 of the Code of the County of Fairfax to permit the encroachment within a Resource Protection Area (RPA) for the purpose of constructing amenities. (Concurrent with PCA 78-S-063-07). (SULLY DISTRICT)

PCA 78-S-063-07 - WESTFIELDS VENTURE LP – Appl. to amend the proffers for RZ 78-S-063 previously approved for business/industrial park to delete 50.59 ac. to be included in concurrent RZ/FDP 2014-SU-016. Located in the N.W. quadrant of the intersection of Westfields Blvd. and Stonecroft Blvd., on approx. 50.59 ac. of land of land zoned I-3. Tax Map 44-3 ((1)) 15. (Concurrent with RZ/FDP 2014-SU-016). (SULLY DISTRICT) JOINT PUBLIC HEARING.

Greg Riegler, McGuireWoods LLP, Applicant’s Agent, reaffirmed the affidavit.

There were no disclosures from Commission members.

William O'Donnell, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of applications RZ/FDP 2014-SU-016 and PCA 78-S-063-07.

Commissioner Litzenberger asked Mr. O'Donnell if the contribution to Westfield High School's turf field set forth in Proffer Number 55, Turf Field, would only go to the Westfield High School or if it could be redirected to another activity or school. Mr. O'Donnell advised that the applicant would escrow the money, and that it would be directed to Westfield High School's turf field as long as there was a fund associated with it. Otherwise, it would revert to the Park Authority as part of the overall Recreational Fund. Mr. O'Donnell said there was no time limit but that the funding would begin following site plan approval.

Commissioner Ulfelder asked for clarification on page 33 of the Staff Report, which stated that the applicant would provide a maintenance account within the Community Association, when Proffer Number 21, Private Streets, stated that the applicant would be responsible for maintenance of private streets. Mr. O'Donnell deferred to the applicant to respond but added that he thought the applicant would construct the private streets to Public Facilities Manual (PFM) standards and there would be an established maintenance fund for the Homeowners Association (HOA) to use for future repairs. Commissioner Ulfelder was concerned about the potential expense of maintenance and stated that if maintenance was the responsibility of the HOA or the Westfields Business Owners Association (WBOA) that information should be disclosed to prospective buyers.

A discussion ensued between Commissioner Ulfelder and Mr. O'Donnell concerning the location of conservation easements. Commissioner Ulfelder stated that he was concerned that the easements would be established and then forgotten, thus allowing the residents to encroach into them. Commissioner Ulfelder stated that someone should be responsible ensuring this did not happen.

Commissioner Hurley asked Mr. O'Donnell to explain the parking tabulations on page 13 of the Staff Report. He stated they were based on the 2.7 spaces set forth by the PRM District regulations in the Zoning Ordinance and that the applicant was exceeding the parking requirement.

Commissioner Hart referred to a memo from the Urban Forester in the Staff Report, which cited a concern about invasive species management not including the area outside of the Resource Protection Area (RPA). Mr. O'Donnell said the proffers required a walkthrough of the entire tree preservation area, which included the area outside of the RPA, with the applicant's Certified Arborist and a Fairfax County Urban Forest Manager to identify all invasive species.

Commissioner Hart and Mr. O'Donnell discussed Proffer Number 14, Retail Element, which had a list of uses that would not be allowed in Building A or B in the event the applicant could not get a restaurant to occupy either building. Commissioner Hart thought the list could include more undesirable establishments.

Mr. Riegle started his presentation by assuring the Commissioners that there would be a fund established for maintenance of the private streets. He stated that there would be a combined association responsible for the commercial, multifamily and townhouse units; therefore, the townhouse residents would not have the total burden of the road costs. Addressing the conservation easement issue, he stated it would be a permanent easement subject to all the requisite enforcement and offered to add it to the Disclosure Proffer that would be disseminated to owners. Mr. Riegle stated that the applicant had been proactive about the invasive species and had already begin removal under the County's Early Detection Rapid Response Program. He said the applicant was confident this type of retail would be successful and that staff had crafted Proffer Number 14, Retail Element, in order to create maximum opportunity for a restaurant. Mr. Riegle noted this rezoning application was preceded by a Comprehensive Plan Amendment and believed that it followed the letter of the plan with respect to the phasing of improvements. He stated that this was a first step in the revitalization of Westfields, which was more than thirty years old and had increased competition from mixed use office complexes throughout the region. Elaborating on the transportation improvements, Mr. Riegle stated that delays at some of the intersections would be decreased by fifty to ninety percent depending on the time of day. In conclusion, he said the application has the support of the WBOA, the Sully District Council and West Fairfax Citizens Association and would be providing amenities in the form of a range of housing opportunities, new retail, substantial public recreation, and road improvements.

Commissioner Litzenberger stated his concern over Proffer Number 6, Disclosure, and asked why the applicant's agreement from June 15 involving notification of prospective homeowners of the overflights was not included. Mr. Riegle said he would add the agreement to the proffers before the Board of Supervisors public hearing. Mr. Riegle stated that the Fairfax County Department of Transportation concurred with the applicant's transportation consultant findings regarding the improvement to Westfields Boulevard and Stonecroft Road. He also noted that the berm of trees to screen the townhomes from Route 28 and Westfields Boulevard as requested by the WBOA had been added to the landscape plan.

Commissioner Hart commented on the impact of the road improvements and asked about the calculation of garage spaces in the parking tabulation. Mr. Riegle stated that the applicant had used a conservative methodology and would still exceed the parking requirement set forth in the Zoning Ordinance.

Commissioner Flanagan noted that this application was in the Route 28 Tax District and that the residents would be asked periodically to make contributions. Mr. Riegle stated there was a

proffer related to the Route 28 Tax District that would ultimately result in no additional contributions being required from residents.

Commissioner Flanagan referred to Proffer 61, Affordable Dwelling Units, and asked if the dwellings would be composed of one-, two-, or three-bedroom units. Mr. Riegle responded that the unit mix would be worked out with staff. Commissioner Flanagan then asked if the developer intended to provide the affordable units with the same unit mix as the current market rate units and noted his preference for seeing it stated in the proffers. Mr. O'Donnell added the applicant had proffered to adhere to the Workforce Housing Policies.

Commissioner Hurley asked staff if there would be affordable housing included in the townhouses as well as the multifamily dwellings. Mr. O'Donnell explained that while the townhouses generated a requirement for affordable housing, the requirement would be located in the multifamily units.

Vice Chairman de la Fe called the first listed speaker.

Bill Keech, Jr., P.O. Box 222005, Chantilly, Virginia, representing the WBOA, stated their support of the application. He stated that this was an opportunity to reinvent Westfields by proactively supporting future land uses, mixed use office and multifamily in the right locations, along with the introduction of retail and park-like amenities which would further enhance the community. He stated that, according to their covenants, the private roads must be maintained by the landowners. Mr. Keech stated that he believed the roads within Westfields Business Park were sufficient to handle the traffic.

Commissioner Hart asked Mr. Keech if the WBOA agreed with the list of uses that would be proffered out if the applicant could not get a restaurant in Building A or B. Mr. Keech agreed that other uses could be excluded but believed that issue could be addressed by the WBOA covenants and the Architectural Review Board.

Vice Chairman de la Fe called for additional speakers, reciting the rules of testimony.

Anthony Manson, 5468 Braddock Ridge Road, Centreville, Virginia, representing the Braddock Ridge Homeowners Association, cited traffic as a main concern, particularly on Route 28. Commissioner Hart said the proposed traffic improvements, which included the addition of turn lanes on Stonecroft Road, would result in more cars getting through the intersection, therefore alleviating some of the backup onto Stonecroft Road. Mr. Manson expressed concern over the timeframe to complete this improvement and the negative impact on traffic during that time. Commissioner Litzenberger said he attended a Virginia Department of Transportation briefing about the I-66 improvements, which included Route 28, and noted they were due to start in 2017 with completion in 2021.

Vice Chairman de la Fe called for additional speakers. Hearing none, he called for applicant's rebuttal.

Mr. Riegle summarized the proposed road improvements, stating that while they would not solve every issue, they would provide a significant step forward.

There were no additional comments from staff; therefore, Vice Chairman de la Fe closed the public hearing.

(Start Verbatim Transcript)

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Vice Chairman de la Fe: Close the public hearing. This is in the Sully District, Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. – Mr. Reigle you can, please come back to the microphone.

Gregory A. Riegle, McGuire Woods LLP, Applicant's Agent: Yes sir.

Commissioner Litzenberger: Do you, your client agrees with the development conditions dated June 4, 2015?

Mr. Riegle: Yes, we do.

Commissioner Litzenberger: And secondly, will you work on the concerns of Mr. Hart for the uses and – Commissioner Hurley and Ulfelder on the - the maintenance cost for the – in between how they'll ordinate.

Mr. Riegle: We will make that commitment as well, yes sir.

Commissioner Litzenberger: Okay, great thank you.

Mr. Riegle: Thank you.

Commissioner Litzenberger: Okay, Mr. Chairman I have five motions. I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVE RZ 2014-SU-016 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLANS SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JUNE 18TH, 2015.

Commissioner Hedetniemi: Second.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi.

Commissioner Litzenberger: I move - oops.

Vice Chairman de la Fe: Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 78-S-063-07.

Commissioner Flanagan: Second.

Commissioner Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi. Any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION APPROVE FDP 2014-SU-016 SUBJECT TO THE BOARDS APPROVAL OF THE CONCURRENT REZONING APPLICATION.

Commissioner Hedetniemi: Second.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi. Any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVE RESOURCE PROTECTION AREA ENCROACHMENT EXCEPTION RPAE #6179-WRPA-007-1 AND THE WATER QUALITY IMPACT ASSESSMENT WQIA #6179-WQ-004-1 SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 4, 2015 AS PROFFERED.

Commissioner Hedetniemi: Second.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi. Any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: Lastly I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE MODIFICATIONS AND WAIVERS DISCUSSED IN THE STAFF REPORT. A SUMMARY OF THE LIST OF THESE CONDITIONS AND WAIVERS DATED JUNE – JULY 7TH, 2015, WAS PROVIDED TO MY FELLOW COMMISSIONERS TODAY AND WILL BE MADE PART OF THE RECORD IN THIS CASE.

Commissioner Flanagan: Second.

Commissioner Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi. All those - any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motions carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(Start Verbatim Transcript)

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ZONING ORDINANCE AMENDMENT – DONATION DROP BOXES - To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment proposes an amendment to Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, specifically Zoning Ordinance Sections 10-102 and 20-300, as follows:

- (1) Defines a donation drop-off box as a portable outdoor container for the collection and storage of unwanted textile and household items that are periodically removed from the container.
- (2) Permits donation drop-off boxes as an accessory use in the C-5, C-6, C-7, C-8 and C-9 Districts on lots 40,000 sq. ft. or greater in size; in any commercial area of a P district when ancillary to the principal use and only when shown on an approved development plan; in any R district where the principal use of the development is not residential; or in conjunction with approval of another use by a special permit, special exception, or a proffered rezoning and only when shown on an approved development plan.
- (3) Limits the number, location and size of donation drop-off boxes to:
 - a. a maximum number of 2 per lot;
 - b. any yard except the minimum required front yard;
 - c. one contiguous area of no greater than 120 sq. ft. in size; and
 - d. a maximum size of 7 ft. in height, 6 ft. in width and 6 ft. in length.
- (4) Prohibits donation drop-off boxes to be located in any required open space; in any landscaped area; on any street, sidewalk or trail; in the sight distance triangle on corner lots; or in any location that blocks or interferes with vehicular or pedestrian circulation.
- (5) Requires donation drop-off boxes to be weather-proof, constructed of painted metal, plastic, or other similarly noncombustible material; maintained in good repair and in a manner that complies with all applicable Building Code and Fire Code regulations; secured from unauthorized access and screened from street-level view of any abutting residential property.
- (6) Requires donation drop-off boxes to display the following information:
 - a. requested items and materials for donation;
 - b. name of operator or owner;

- c. name of entity responsible for maintenance and removal of items, including items left outside the box;
 - d. telephone number of owner, operator or designated agent and
 - e. notice that states no items shall be left outside the box and that liquids and refuse disposal are prohibited.
- PUBLIC HEARING.

Heath Eddy, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. Mr. Eddy noted that staff recommended approval of the proposed Zoning Ordinance Amendment.

Commissioner Hedetniemi asked Mr. Eddy to explain any permitting or licensing issues associated with this amendment. Mr. Eddy stated that while some other jurisdictions had permit requirements, the Fairfax County Board of Supervisors, (BOS), believed that an additional permit was an unnecessary step at this time. He added that the BOS would revisit the issue if enforcement by the Department of Code Compliance was not sufficient.

Commissioner Hedetniemi asked for clarification regarding the responsible party for any imposed fines. Christopher Costa, Assistant County Attorney, County Attorney's Office, said this Zoning Ordinance would be enforced pursuant to Part 9 of Article 18 of the Zoning Ordinance, and stated the County had some general options: a criminal misdemeanor summons which resulted in a fine; a civil penalty in the General District Court which also resulted in a fine; and after ten days with no compliance, there could be an additional fine of five hundred dollars issued. He noted the definition of a responsible party was anyone who was responsible for that box which he interpreted as the property owner and the company that provides the box. He added that the property owner had the right to remove the violating box or have a codefendant with this violation.

Commissioner Hart asked if this ordinance would grandfather any existing donation boxes. Mr. Eddy stated that existing boxes would also need to comply as they were not currently permitted. Commissioner Hart asked about the limit of allowing only two donation boxes on a property with no consideration to the size of the property. Michelle O'Hare, Deputy Zoning Administrator, ZAD, DPZ, stated that number was a compromised reached in discussion with the BOS. She added that if a property owner wanted to increase the number of boxes allowed they could pursue a variance.

Commissioner Hurley asked if signage would be allowed to direct citizens to the boxes. Mr. Eddy said there were certain types of directional signs allowed by-right on a site. Ms. O'Hare clarified that anything you could not see from the road was not considered a sign; therefore, if property owners wished to place directional signs they could. She also added that most of the donation boxes were brightly colored, causing them to be noticeable on the lot. Staff therefore did not believe additional signage would be necessary.

Commissioner Migliaccio asked if hours of pickup for the boxes would be regulated, especially in locations that abut neighborhoods. Mr. Eddy said that it would be subject to the Noise Ordinance, which included standards for collection times. Ms. O'Hare said staff did not consider restricting collection times when drafting the amendment and believed it would be outside the scope of the advertisement; therefore, they could make a follow-on motion to add that to the amendment.

In response to Commissioner Ulfelder's question, staff stated that they did not have an exact count of current donation boxes but estimated several hundred existed in the County. Staff noted that most would currently be in violation due to location on the site, the number of boxes, maintenance issues, or the lack of proper screening. Commissioner Ulfelder asked how the County was going to handle the non-conforming boxes after adoption of this amendment. Mr. Eddy responded that the intention was to operate through the normal complaint process.

Commissioner Ulfelder asked if the County planned to educate property owners about the amendment and work with them to conform to the new standards. Mr. Eddy noted that in January, Supervisor Gross sent out a letter to business owners in the Mason District that included information on this amendment.

Mr. Costa stated that the drop boxes were treated specially under the law because they had Constitutional protection under the First Amendment. He explained that charitable solicitation was protected speech under the First Amendment per the Supreme Court and lower courts have applied that to donation drop boxes, striking down local regulations that relate to these types of drop boxes especially when content-based. Mr. Costa explained that the County could regulate the land use impact such as dumping, appearance, and location of these boxes as long as it was narrowly tailored. He noted that this amendment was a balance between the public health, safety and welfare interest in the community and constitutional protections.

Mr. Eddy stated that a few organizations contact property owners and get written permission to place the boxes on a lot; however, the majority drop them off without prior notice. He explained that the County would not be able to monitor written agreements between the affected parties as drop boxes would not be subject to a permit process.

Commissioner Flanagan wanted to know how many different types of donation boxes existed. Staff did not have a specific listing, only common ones. Commissioner Flanagan suggested a special permit process for the donation boxes to allow for better regulation. Mr. Costa cautioned against it and added that the amendment was drafted to protect First Amendment speech.

Commissioner Hedetniemi stated she was going to defer decision on this application and asked that staff work on an educational plan that would provide information to property owners and charitable groups.

Vice Chairman de la Fe called for the listed speaker.

Janet Newport, representing the Barcroft Mews Homeowners Association, 3031 Barcroft Mews Court, Falls Church, Virginia, (statement submitted in writing) said their community's experiences with donation boxes have been unfavorable, citing how they had to work with the owner of Barcroft Shopping Center in monitoring and removal of the boxes. Ms. Newport also stated that it was harsh to fine property owners for non-compliant boxes.

Commissioner Hedetniemi asked Ms. Newport if she was aware that staff was advised not to become encumbered by excessive oversight. Ms. Newport said she was in support of regulating donation boxes appropriately. Commissioner Hedetniemi noted the balance between the needs of charitable organizations and the rights of property owners and residents of the County.

Commissioner Flanagan referred to Ms. Newport's request for a provision that would prohibit placement of a drop box within 100 yards of the entrance to a park or subdivision. He asked if Ms. Newport would be willing to work with staff regarding this request and she affirmed. Vice Chairman de la Fe commented that some of these requests may be outside the scope of the advertisement but that they would be taken into consideration.

Commissioner Hart stated the amendment would not diminish the rights of the property owner. He agreed property owners should be accountable for structures that are located on their property.

Commissioner Hurley asked staff if the County wanted to allow these boxes on any or all public lands. Mr. Eddy said he had the impression that the BOS was not in favor of allowing donation boxes on County-owned property. When asked if it would be legal for the County not to allow the boxes on public property, Mr. Costa stated that as long as the County treated all similarly situated properties equally that would be allowed. When Commissioner Hurley questioned specifically about not allowing boxes on park property and school property, Mr. Costa stated that he would further research the matter.

Vice Chairman de la Fe called for unlisted speakers and recited the rules of testimony.

Jane Catrillo, 6306 Barcroft Mews Drive, Falls Church, Virginia, President of Barcroft Mews Homeowners Association, stated their town home community shared a property line with Barcroft Plaza Shopping Center. She believed the County should have reached out to residential communities and property management companies for input regarding this issue. Ms. Catrillo has worked with the shopping center on the donation boxes and noted issues of boxes being dropped off without permission and citizens dumping uncollectable items. Ms. Catrillo suggested a reduction of the number of boxes in the community by limiting them to churches or

other charitable organizations. In response to Commissioner Migliaccio's question, Ms. Catrillo stated it took one to two weeks to get unwanted boxes removed from the shopping center.

Commissioner Sargeant and Mr. Costa discussed the following issues: options for buffering and screening requirements; whether the boxes would ever constitute a life or health hazard; and if there was any compensation involved between property owners and drop box organizations; and additional opportunities for enforcement. Commissioner Sargeant requested that these issues be researched by staff.

Commissioner Hedetniemi referred to an email from Daniel Aminoff, Chair of the Mason District Land Use Committee, in support of the amendment, which stated that the amendment was well researched with buy-in from all parties.

Jon Clarke, 7227 Auburn Street, Annandale, Virginia, Mason District Council, stated he was the Code Compliance Chair and would like for the Mason District Council to have additional input.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Hedetniemi for action on this case.

(Start Verbatim Transcript)

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Vice Chairman de la Fe: Close the public hearing, Commissioner Hedetniemi.

Commissioner Hedetniemi: Thank you, Mr. Chairman. I want to thank staff for their efforts to respond to the many questions that were raised tonight and I commend the staff for their integrity and their well-intentioned work. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR THE PROPOSED ZONING ORDINANCE AMENDMENT FOR DONATION DROP OFF BOXES TO A DATE CERTAIN OF- OF JULY 23RD, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioner Sargeant: Second.

Vice Chairman de la Fe: Seconded by Commissioner Sargeant. We don't have a meeting that –

Commissioner Hedetniemi: JULY 22ND.

Vice Chairman de la Fe: You can do the 22nd? Okay.

Commissioner Sargeant: Double second.

Commissioner Hedetniemi: Double second.

Vice Chairman de la Fe: So you- so you second the second?

Commissioner Sargeant: Yeah I do.

Vice Chairman de la Fe: Okay, any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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SE 2015-SU-009 - LAIBA SHEIKH/LAIBA'S FAMILY DAY CARE – Appl. under Sect(s). 6-105, 6-106, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 5723 Triplett Dr., Centreville, 20120, on approx. 11,547 sq. ft. of land zoned PDH-12, WS. Tax Map 54-3 ((10)) 15. Sully District.

Laiba Sheikh, Owner, Laiba's Family Day Care, reaffirmed the affidavit dated April 4, 2015.

There were no disclosures by Commission members.

William O'Donnell, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted there was a revised condition added on July 7 to ensure the existing shed in the backyard was locked during the hours of operation of the home child care use. Staff recommended approval of SE 2015-SU-009.

Commissioner Sargeant referred to Attachment 3B in the staff report, which was a spreadsheet of the proposed arrival and departure times, and questioned having the same arrival time for all of the children. Mr. O'Donnell deferred to the applicant for clarification on arrival times and stated it was his understanding that they were more staggered than what was shown in the staff report. Commissioner Hart asked why the spreadsheet only accounted for six children while the application was for twelve. Mr. O'Donnell said that was based on the applicant's current

enrollment. He clarified that she was licensed for seven children but was caring for six at this time. The special exception was asking for an additional five children to be allowed. Commissioner Hart said the staggered arrival and departure times should be in the conditions. Mr. O'Donnell agreed. Laiba Sheikh confirmed that the arrival times were staggered between 9 a.m. and 10 a.m.

Commissioner Litzenberger referred to a flyer he received in his mailbox for Laiba's Family Daycare which was advertising weekend hours that would be in violation of the development conditions. Ms. Sheikh said it was done in error and would be corrected. She agreed to send staff a corrected version.

Vice Chairman de la Fe called for the listed speakers.

Christopher and Julie Ann Shrank, 14417 Red House Drive, Centreville, Virginia, voiced their concerns over the busy intersection, influx of strangers to the neighborhood, and flyers advertising weekend hours. They stated that having a small business in the neighborhood would adversely impact property values and cited possible parking issues with parents dropping off and picking up their children.

Vice Chairman de la Fe advised that most homeowners associations state you must be in compliance with the County Code and asked if their association documents stated otherwise. Mr. Shrank did not know. Vice Chairman de la Fe also noted that seven children are allowed by right.

Commissioner Flanagan asked Mr. Shrank about staff's conclusion that the use would not negatively impact the site nor neighboring properties. Mr. Shrank said he believed it would adversely impact them and mentioned that other neighbors in the audience were also opposed to the application.

Commissioner Hart explained that sometimes it was better to have twelve children subject to development conditions versus seven children by-right with no conditions. He gave examples how they could limit the home day care's hours of operation along with pickup/drop-off times and asked what his preference would be. Mrs. Shrank stated she was opposed to doubling the number of children at the applicant's house citing increased traffic.

Vice Chairman de la Fe called for unlisted speakers, reciting the rules of testimony.

Caroleigh Karlsson, 6031 Netherton Street, Centreville, Virginia, Secretary of Newgate Homeowners Board, said their covenants stated that no businesses were allowed in the community. She cited concerns over traffic at the intersection as it was also a school bus stop, advertising for what appears to be a more involved business than home day care provider, and mentioned that it has been questioned if the applicant was an actual resident. Ms. Karlsson asked

for a deferral to allow time for them to further consider the application and inform the community.

Commissioner Hart explained the Planning Commission was not allowed to consider homeowners covenants in the decision process; however, the Commission's decision would not impact the association's right to enforce its covenants in court.

Commissioner Hurley asked staff if they inspected the house and if there was evidence that the applicant lived there. Mr. O'Donnell affirmed both, adding that the affidavit lists her as a lessee with the subject property as her primary residence.

Karen Savia, 5710 Harrison House Court, Centreville, Virginia, spoke in opposition. She cited the homeowners covenants which restricted permitted businesses.

Susan Hartsook, 5703 Regimental Court, Centreville, Virginia, president of Newgate HOA, spoke in opposition citing negative traffic impact. She stated that the intersection where the applicant lived was also a Fairfax County School bus stop and was concerned over additional traffic being generated. A discussion ensued between Commissioner Litzenberger and Ms. Hartsook over the bus stop.

Michael Gilbert, 5710 Harrison House Court, Centreville, Virginia, cited traffic concerns and noted the homeowners association had not had an opportunity to speak with the applicant nor the community about this request.

Commissioner Migliaccio asked staff why the applicant was not using the large driveway as a drop off and pick up location. Mr. O'Donnell stated that staff encouraged its use but did not include it as a development condition due to the issue of enforcement.

Commissioner Hart said the Board of Zoning Appeals had been including a condition requiring pick up and drop off to take place in the driveway and not on the street in order to address safety concerns.

Commissioner Hurley asked staff if during the deferral they could determine the exact location of the bus stop, stating a concern about cars backing out of the driveway with children close by.

Commissioner Flanagan asked how Development Condition Number 7, which refers to pick up and drop off of the children, could be restricted. Mr. O'Donnell suggested that the Commission could address this during the motion, by stating that all pickup and drop off of children shall take place in the driveway.

There was no rebuttal from Ms. Sheikh.

Vice Chairman de la Fe closed the public hearing.

(Start Verbatim Transcript)

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Commissioner Litzenberger: Thank you. Mr. Chairman, I think we need a few more days to work this out so, and Ms. Cara Karlsson requests that we defer that so we're going to defer this evening. What I would like staff to do is address some of the concerns – some of them aren't valid quite frankly – some of them are valid. The issues about the parking is valid – the – we cannot rule on whether the covenants are valid or not, that's an issue between the HOA and the homeowner and we will not get involved in that. So, with that in mind do you have enough information to move forward Mr. O'Connell – O'Donnell, excuse me. It's after midnight. I
MOVE THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2015-SU-009 TO A DATE CERTAIN OF JULY 15TH, 2015.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: It's been moved and seconded, by Mr. Flanagan. Any discussion? All those in favor of the deferral to July 15TH, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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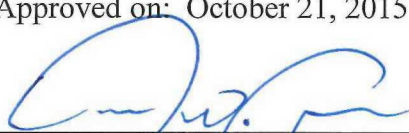
July 8, 2015

The meeting was adjourned at 12:06 a.m.
Frank de la Fe, Vice Chairman
James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,
12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Teresa M. Wang

Approved on: October 21, 2015



John W. Cooper, Clerk
Fairfax County Planning Commission